

Remarks

Summary of the Office Action

Claims 1-6, 51-56, 101-106, and 151-177 are pending in this application. Claims 7-50, 57-100, and 107-150 were cancelled after being withdrawn from consideration pursuant to applicants' reply to the restriction requirement of June 1, 2006.

Claims 1-6 and 151-159 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-6, 51-56, 101-106, 152-159, 161-168, and 170-177 are rejected under 35 U.S.C. § 103(a) as being obvious over Israel et al. U.S. Patent No. 6,766,307 ("Israel") in view of Pomerance U.S. Patent No. 7,529,679 ("Pomerance").

Claims 151, 160, and 169 are rejected under 35 U.S.C. § 103(a) as being obvious over Israel in view of Pomerance in further view of Sloo U.S. Patent No. 5,895,450 ("Sloo").

Summary Applicants' Reply

Applicants have amended claims 1, 2, 4, 5, 51, 52, 54, 55, 101, 102, 104, 105, and 151-177 to more particularly define the invention. No new matter has been added and the amendments are fully supported by the original specification.

Reconsideration of this application in light of the amendments to the claims and the following remarks is hereby respectfully requested.

Telephonic Interview Summary

On November 9, 2009, a telephonic interview took place between the Examiner and the undersigned. The undersigned wishes to thank the Examiner for the courtesies extended during the telephonic interview.

During the telephonic interview, undersigned and the Examiner discussed the interpretation of independent claim 1 in view of the references cited by the Examiner. The Examiner and the undersigned did not come to an agreement over the course of the discussion. Accordingly, detailed arguments in support of applicants' position are presented below.

Applicants' Reply to the 35 U.S.C. § 101 Rejection

Claims 1-6 and 151-159 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is respectfully traversed.

In rejecting method claim 1, the Examiner has relied on the decision of the Court of Appeals for the Federal Circuit in In re Bilski, 545 F.3d 943, 88 USPQ2d 1385 (Fed.Cir. 2008) and various United States Supreme Court decisions cited in Bilski. According to the Examiner's formulation of the Bilski test, for a method to be statutory subject matter under 35 U.S.C. § 101, the claim must be tied to a particular machine or it must transform an article. This machine or transformation test is subject, according to the Examiner, to two corollaries: (1) "the machine or transformation must impose meaningful limits on the method claim's scope to pass the test," and (2) "reciting a specific machine or a particular transformation of a specific article in an insignificant

step, such as data gathering or outputting, is not sufficient to pass the test" (Office Action, pg. 2, § 2).

The Examiner argues that the first and second computer of applicants' claims are used merely for data manipulation and that such manipulation is considered insignificant extra-solution activity, which is not sufficient to satisfy the machine or transformation test set forth in *Bilski*. Applicants respectfully disagree with this assertion. In addition, applicants respectfully note that the Examiner has not addressed all the apparatus elements recited in independent claim 1. In particular, in the Reply to Office Action dated April 17, 2009, applicants amended claim 1 to include control circuitry, a user input device, and a display device.

Without taking a position on the "transformation" prong of the *Bilski* test, applicants respectfully submit that independent claim 1 is sufficiently tied to a particular machine in order to satisfy the statutory requirements under 35 U.S.C. § 101. Although the *Bilski* court did not address what constituted a sufficient machine tie-in for a method to qualify as a statutory process under the tied-to-a-machine prong, it did address one category of insufficient tie-in, which is "insubstantial post or extra-solution activity," whereby a method otherwise totally independent of a machine includes a step that adds some insignificant machine-related action at the end, or at some other time during performance of the method.

Applicants respectfully submit that the machine activity in applicants' claim 1 is much more than mere "insubstantial post or extra-solution activity." In particular, each of the apparatus elements recited in claim 1, including the control circuitry, user input

device, and display device is essential to accomplishing the claimed method steps. The claimed approach provides a method for guiding a user through dispute resolution using a dispute management application implemented at least partially on control circuitry. For example, to assist a user in understanding various dispute resolution options, the steps for implementing a number of dispute resolution mechanisms are displayed on a display device at a first computer. The user is then prompted, at the first computer, to indicate one of several dispute resolution paths. The user indication is received using a user input device and the indicated path is accordingly initiated.

In other words, the claimed control circuitry is integral to the implementation of the dispute resolution application, the display device is vital to assisting the user in choosing among several dispute resolution paths, and the user input device is necessary in order for the user to indicate a path for initiation. Successful execution of the method steps of claim 1 therefore depends directly on the claimed apparatus elements, and so the latter cannot be mere "insubstantial post or extra-solution activity." As such, applicants respectfully submit that independent claim 1 is sufficiently tied to a particular machine in order to satisfy the statutory requirements under 35 U.S.C. § 101.

Therefore, applicants respectfully submit that the rejection of independent claim 1 under 35 U.S.C. § 101 should be withdrawn. Furthermore, the rejection of dependent claims 2-6 and 151-159 under 35 U.S.C. § 101 should be withdrawn at least because they are dependent upon independent claim 1.

Applicants' Reply to the Rejection of Claims 1-6,
51-56, 101-106, 152-159, 161-168, and 170-177
under 35 U.S.C. § 103(a)

Claims 1-6, 51-56, 101-106, 152-159, 161-168,
and 170-177 are rejected under 35 U.S.C. § 103(a) as being
obvious over Israel in view of Pomerance.

Applicants' independent claims 1, 51, and 101 are
directed, *inter alia*, toward a method and systems for
guiding a user through dispute resolution using a dispute
management application. An indication is received from the
user to create a profile that includes dispute resolution-
related information associated with the user and a dispute.
In response to receiving the profile information, at least
two dispute resolution paths are selected from a plurality
of dispute resolution paths. The process of selecting the
dispute resolution paths includes determining, based on the
profile, which of the plurality of dispute resolution paths
are most appropriate for resolving the dispute. Each
selected dispute resolution path is made up of a number of
steps that implement at least one dispute resolution
mechanism (*i.e.*, an arbitration service or mediation
service). The steps of the selected dispute resolution
paths are displayed along with estimated dispute resolution
information. The user is then prompted to indicate one of
the paths, which is initiated in response to the
indication.

The claimed approach assists a user in
understanding various dispute resolution options supported
by a dispute management application and aids the user in
selecting the most appropriate option for resolving the
dispute. In particular, a number of dispute resolution
paths may be available to resolve the dispute and it may be
difficult for users to choose from among the different

resolution paths. A dispute resolution path includes a series of steps for implementing one or more dispute resolution mechanisms and each dispute resolution path may differ in the type and number of mechanisms employed. As a result, it may become cumbersome for a user to choose the most appropriate resolution path for resolving the particular dispute at hand.

In one example, the available dispute resolution mechanisms may include several arbitration services (e.g., documents-only arbitration, in-person arbitration, etc.) and several mediation services (e.g., on-call mediation, in-person mediation, etc.). As such, dispute resolution paths may be available that include one or more of these mechanisms for resolving a dispute (e.g., a path may include on-call mediation followed by documents-only arbitration). As opposed to traditional dispute resolution techniques, the claimed approach uses a profile that includes information related to the user (e.g., contact information, references, links to ratings and reports, etc.) and information related to the dispute (e.g., dispute information, dispute resolution history, etc.) to select a subset of the available dispute resolution paths. The subset of paths are determined to be the most appropriate dispute resolution paths for resolving the dispute based on the profile. The steps for implementing each of the subset of paths are displayed together with estimated dispute resolution information (e.g., the estimated time and cost for resolving the dispute using each of the resolution paths) for the user to review and compare. Such paths may be graphically displayed to assist the user in understanding - step by step - the particular resolution process defining each path. The user is then prompted to

indicate one of the displayed dispute resolution paths and the indicated path is accordingly initiated.

The Examiner argues that the combination of Israel and Pomerance shows or suggests all the features of applicants' independent claims. Applicants respectfully submit, however, that neither Israel, Pomerance, nor the combination thereof shows or suggests the claimed approach of determining, based on a profile, which of the available dispute resolution paths are most appropriate for resolving the dispute and selecting at least two of the most appropriate paths for the user. Furthermore, neither Israel nor Pomerance describes displaying steps for implementing the selected dispute resolution paths, along with estimated dispute resolution information, before the user indicates which dispute resolution path to initiate, as required by the applicants' claims.

Israel refers to a dispute resolution system that includes an electronic architecture with a management module and a reckoning module. The management module "is configured to receive, sort and store dispute resolution data and to provide [...] new data generated during non-judicial dispute resolution procedures," while the reckoning module "is designed to implement a selected resolution procedure" (Israel, "Abstract"). A program user can submit a dispute as shown in Israel's FIG. 4. Upon adding a dispute, the program user specifies a profile classification, the nature of the dispute, the opposing party, and additional dispute data (Israel, FIG. 4, elements 58-62; col. 16, line 33 through col. 17, line 12). The program user must then choose whether to use the dispute resolution capabilities of the system or to submit

the dispute for mediation or arbitration (Israel, FIG. 4, element 63; col. 17, ll. 21-43).

The Examiner concedes that Israel "fails to explicitly disclose determining a sub-plurality of dispute resolution paths; determining estimated dispute resolution information; and displaying the plurality of steps for the determined dispute resolution paths and the estimated dispute resolution information" (Office Action, pg. 4). However, the Examiner asserts that Pomerance makes up for these deficiencies in Israel.

Pomerance refers to an automated alternative dispute resolution ("AADR") system that receives and processes customer or merchant complaints. As shown in Pomerance's FIG. 2, after a customer submits a complaint, the AADR system immediately initiates a "pre-defined dispute resolution process" that results in a settlement or proceeds to mediation (Pomerance, col. 3, line 52 through col. 4, line 23). In particular, a customer submits a complaint form including details related to the problem encountered and the desired remedy (Pomerance, col. 4, ll. 38-67). The AADR system informs the customer "generally how the dispute resolution process works and where more information can be obtained," among other notifications (Pomerance, col. 5, ll. 10-15). A complaint summary is then created and, upon approval by the customer, sent to the merchant (Pomerance, col. 6, ll. 1-3). The merchant's answer to the complaint is received by the AADR system and a determination is made as to whether a settlement has been reached. If a settlement has not been reached, the AADR system may provide "additional information such as particular procedural alternatives available and the consequences of each, and suggested

action for [the customer]" (Pomerance, col. 7, ll. 15-21). After a series of responses from both the customer and merchant fails to result in a settlement, the AADR system may proceed to mediation or notify the customer of "the availability of other conventional dispute resolution mechanisms" (Pomerance, col. 8, ll. 45-53).

- A. Israel and Pomerance fail to show or suggest "selecting at least two dispute resolution paths for resolving the dispute from a plurality of dispute resolution paths [in response to receiving profile information]."

Applicants respectfully submit that Israel and Pomerance fail to show or suggest "in response to receiving the profile information at a second computer, selecting at least two dispute resolution paths for resolving the dispute from a plurality of dispute resolution paths, wherein the selection comprises determining, based on the profile, which of the plurality of dispute resolution paths are most appropriate for resolving the dispute," as recited by applicants' independent claims.

The Examiner asserts that Pomerance shows this feature of applicants' claims. In Pomerance, after a customer submits a complaint to the AADR system, the complaint is processed to "provide relevant legal, procedural and prior case information to [the customer]" (Pomerance, col. 3, ll. 52-62). The Examiner argues that Pomerance's provision of "procedural" information to the customer is equivalent to the claimed approach of providing the user with dispute resolution paths (Office Action, pg. 4). Applicants disagree with this assertion. First, nothing in Pomerance indicates that "procedural" information includes information on multiple dispute

resolution paths. Instead, as described above, Pomerance refers only to notifying the customer "generally how the dispute resolution process works and where more information can be obtained," (Pomerance, col. 5, ll. 10-15). A general description of dispute resolution is not the same as "selecting at least two dispute resolution paths for resolving the dispute from a plurality of dispute resolution paths," as recited by applicants' claims. Second, the claimed approach provides pre-selected dispute resolution paths so that a user can initiate a desired one of the paths. Pomerance, on the other hand, does not suggest that the "procedural" information is displayed so that a user can select a dispute resolution path. In fact, in Pomerance, a user is seemingly prevented from choosing an initial dispute resolution path, since Pomerance immediately embarks on a "pre-defined dispute resolution process" including "complaint, answer, reply, and sur-reply" (Pomerance, col. 4, ll. 21-23). Only after the "pre-defined dispute resolution process" fails to result in a settlement are a mediation process and "other conventional dispute resolution mechanisms" considered (Pomerance, col. 8, ll. 45-53).

Moreover, Pomerance does not show or suggest the claimed discriminative process whereby two or more dispute resolution paths are selected for the user. In particular, applicants' claims require that a determination be made, based on the profile, as to which of a set of dispute resolution paths are most appropriate for resolving the dispute. Nowhere in Pomerance is such a determination of at least two dispute resolution paths made; certainly such a determination is not made before Pomerance's "pre-defined

dispute resolution process" commences, as required by applicants' claims.

Therefore, Pomerance does not show or suggest the claimed feature of selecting at least two dispute resolution paths for resolving the dispute from a plurality of dispute resolution paths. Furthermore, nothing in Israel shows or suggests this feature. Accordingly, for at least this reason, the rejection of applicants' claims under 103(a) should be withdrawn.

- B. Israel and Pomerance fail to show or suggest "determining for each of the selected dispute resolution paths a plurality of steps for implementing at least one dispute resolution mechanism" and "determining estimated dispute resolution information for each of the selected dispute resolution paths based on the profile."

Applicants respectfully submit that that Israel and Pomerance fail to show or suggest (a) "determining for each of the selected dispute resolution paths a plurality of steps for implementing at least one dispute resolution mechanism, wherein each dispute resolution mechanism is one of an arbitration service or a mediation service" and (b) "determining estimated dispute resolution information for each of the selected dispute resolution paths based on the profile," as recited by applicants' independent claims.

The Examiner asserts that Pomerance describes these features of applicants' claims. In particular, the Examiner argues that Pomerance's AADR system informs the customer "generally how the dispute resolution process works and where more information can be obtained, provides an estimate of a reasonable time frame and the automatic notification that [the customer] can expect" (Pomerance, col. 5, ll. 10-15). According to the Examiner, providing a

general description of dispute resolution, estimated time frames, and an expected notification are equivalent to the claimed features of (a) determining for each selected dispute resolution path a number of steps for implementing a dispute resolution mechanism (*i.e.*, an arbitration service or a mediation service) and (b) determining estimated dispute resolution information for each selected dispute resolution path based on the profile. Applicants respectfully disagree with these assertions.

As argued above, Pomerance's reference to a general description of the dispute resolution process cannot be construed to include more than just that - a general description. There is nothing in Pomerance to suggest this general description includes specific steps for implementing a dispute resolution mechanism such as arbitration or mediation. However, even assuming, *arguendo*, that Pomerance's general description does include a list of steps for implementing a dispute resolution mechanism, there is still nothing to suggest that Pomerance would provide a list of steps for each of at least two selected dispute resolution paths, as required by applicants' claims. In other words, even if Pomerance suggests providing the user with at least two selected dispute resolution paths in the claimed fashion (a contention the applicants dispute), and even if Pomerance suggests providing the user with a list of steps for implementing a dispute resolution mechanism (another contention the applicants dispute), Pomerance still would not show or suggest determining steps for each individual selected dispute resolution path.

Similarly, even if one assumes, *arguendo*, that Pomerance provides a user with estimated dispute resolution

information, as the Examiner contends, nothing in Pomerance suggests that estimated dispute resolution information is determined for each selected dispute resolution path, as required by applicants' independent claims. Rather, Pomerance's reference to providing an estimate of a reasonable time frame is, at best, an estimate of the entire dispute resolution process, and not a particular dispute resolution path.

The claimed approach thus represents an improvement over Pomerance in that a user has the ability to review and compare dispute resolution paths that were previously vetted by the system and selected in view of their appropriateness for resolving the dispute. Thus, the claimed approach displays, for each path, the steps involved in implementing a dispute resolution mechanism and estimated dispute resolution information in order to facilitate the user's selection of a particular one of the resolution paths. This approach stands in contradistinction to the system of Pomerance, which embarks immediately on a path of back-and-forth communication between the parties (the above-described "pre-defined dispute resolution process") and provides the user with alternatives only after failing to arrive at a settlement.

Therefore, Pomerance does not show or suggest the claimed features of determining (a) a plurality of steps for implementing a dispute resolution mechanism and (b) estimated dispute resolution information, for each of the selected dispute resolution paths. Furthermore, nothing in Israel shows or suggests these features. Accordingly, for at least this additional reason, the rejection of applicants' claims under 103(a) should be withdrawn.

For at least the foregoing reasons, applicants respectfully submit that independent claims 1, 51, and 101 are in condition for allowance. Claims 2-6, 52-56, 102-106, 152-159, 161-168, and 170-177 depend from applicants' allowable independent claims 1, 51, and 101, respectively. Accordingly, for at least this reason, the rejection of these claims should be withdrawn (In re Fine).

Applicants' Reply to the Rejection of
Claims 151, 160, and 169 under 35 U.S.C. § 103(a)

Claims 151, 160, and 169 are rejected under 35 U.S.C. § 103(a) as being obvious over Israel in view of Pomerance in further view of Sloo.

Claims 151, 160, and 169 depend from applicants' allowable independent claims 1, 51, and 101, respectively. Accordingly, for at least this reason, the rejection of these claims should be withdrawn.

Claims 151, 160, and 169 are allowable for at least the additional reason that Sloo does not show or suggest determining estimated dispute resolution information by providing success rate information for similar disputes resolved using each of the selected dispute resolution paths, as recited by applicants' claims.

The Examiner, citing Sloo, col. 8, ll. 50-58, asserts that Sloo "discloses providing success rate information by rating the parties involved in disputes wherein the rating or score for the prevailing party is increased, while the rating or score for the losing party is decreased" (Office Action, pg. 14). The Examiner further argues that "a dispute may be interpreted to be 'similar' because it involves at least of [sic] the same parties in which a rating is provided" (Office Action, pg. 15). Applicants disagree with this assertion.

Sloo refers to adjusting the performance records of each party in the dispute to reflect the judgment (*Id.*). However, these performance records do not indicate success rate information for similar disputes resolved using each of at least two selected dispute resolution paths, as in the applicants' approach. Sloo's performance records are "used to store information concerning the user's conduct while using the apparatus" (Sloo, col. 4, ll. 52-60 and col. 6, ll. 15-24). In other words, Sloo's performance records are associated with users and not with disputes. The applicants' claims, on the other hand, specify that the success rate information is provided for similar disputes resolved using the selected dispute resolution paths.

In addition, Sloo's performance records are not specific to certain pre-selected resolution paths. In the applicants' claims, in contrast, success rate information is provided for disputes resolved using each selected dispute resolution path, where the paths were previously selected from a set of dispute resolution paths based on their appropriateness to resolving the dispute. Moreover, like Israel and Pomerance, Sloo does not provide estimated dispute resolution information - such as success rate information - for each of the selected dispute resolution paths, as recited by applicants' independent claims. Instead, Sloo's performance records are, at best, indications of a user's success and reputation. As such, Sloo's performance records cannot be used to provide information about particular disputes or particular dispute resolution paths, as required by applicants' claims.

Therefore, Sloo does not show or suggest the claimed feature of providing success rate information for similar disputes resolved using each of the selected

dispute resolution paths, as required by claims 151, 160, and 169. Accordingly, for at least this additional reason, the rejection of these claims should be withdrawn.

Conclusion

For at least the reasons set forth above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

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